

**SEMINOLE COUNTY GOVERNMENT
LAND PLANNING AGENCY / PLANNING AND ZONING COMMISSION
AGENDA MEMORANDUM**

SUBJECT: Amendment to the HIBC Development Agreement Relating to the
International Parkway and Recreational Trail

DEPARTMENT: Planning & Development **DIVISION:** Development Review

AUTHORIZED BY: Mahmoud Najda **CONTACT:** John Thomson ^{JT} **EXT.** 7346

Agenda Date <u>9/4/02</u>	Regular <input type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Special Hearing – 6:00 <input type="checkbox"/>	Public Hearing – 7:00 <input checked="" type="checkbox"/>	

MOTION/RECOMMENDATION:

Recommend that the Board of County Commissioner approve the Amendment to the Heathrow International Business Center (HIBC) Development Agreement regarding the International Parkway and Recreational Trail. The applicant is Kenneth W. Wright of Shutts and Bowen LLP.

Section 163.3225 requires that the day, time, and place of the second public hearing be announced at the first public hearing. The second public hearing to consider this amendment by the Board of County Commissioners is scheduled for September 10, 2002 at 1:30PM or shortly thereafter in the Commissioners Chambers (Room 1028) at the County Services Building at 1101 East First St., Sanford, Florida.

District 5 – McLain (John Thomson, Principal Coordinator)

BACKGROUND:

The County and the HIBC Development Company entered into a Development Agreement (agreement) in September 1996 to address the timing for the completion of the International Parkway and Recreational Trail within the HIBC. The purpose of this request to amend the agreement is to clarify which obligations have been met and those that are remaining for the Colonial Realty Limited Partnership. Colonial Realty Limited Partnership recently purchased the HIBC from the HIBC Development Company.

The agreement was created under provisions of the Local Development Agreement Act (Sections 163.3220 through 163.3243, F.S.). This Act authorizes local governments and private developers to enter into agreements that address commitments and timing for the provision of necessary capital improvements to allow development to proceed.

The agreement provides the timing and phasing of the completion of the International Parkway and other improvements, including the recreational trail and drainage facilities,

from AAA Drive to CR 46A. The agreement stipulated the maximum amount of building activity and trip generation that could occur in the HIBC until this roadway was completed. These limits were specified so that HIBC could proceed with its building plans and that the County would have the assurance that the project would meet transportation requirements in the Development Order for the HIBC project. The timing and conditions for the conveyance of the right-of-way for the Parkway and recreational trail were also addressed in the agreement.

As noted above, the amendment stipulates the obligations that have been met and those that are remaining. The obligations that have been met include the construction of the recreational trail and the International Parkway with the exception of the realignment of the segment from Bridgewater Drive to the specialty pavement adjacent to the Heathrow Shoppes entrance. The dedication of the right-of-way for the Parkway and Recreational Trail is a remaining obligation. The dedication of the Parkway must await the completion of this segment of roadway. In the interim, the amendment provides for continued maintenance by the Colonial Realty Limited Partnership with the Developer having the option to dedicate the right-of-way to the County or another appropriate governmental entity. The amendment provides for appropriate bonding to assure completion of the remaining roadway segment realignment.

STAFF RECOMMENDATION:

Staff recommends approval of the amendment to the HIBC Development Agreement.

District: 5 - McLain

Attachments: Amendment to the Development Agreement
Original HIBC Development Agreement (1996)

This document prepared by
and should be returned to:
Kenneth W. Wright, Esq.
Shutts & Bowen LLP
300 South Orange Avenue, Suite 1000
Orlando, Florida 32801
(407) 423-3200

**AMENDMENT TO DEVELOPMENT AGREEMENT
REGARDING INTERNATIONAL PARKWAY AND RECREATIONAL TRAIL**

THIS AMENDMENT TO DEVELOPMENT AGREEMENT REGARDING INTERNATIONAL PARKWAY AND RECREATIONAL TRAIL (this "Amendment") is made and entered into as of this ____ day of _____, 2002, by COLONIAL REALTY LIMITED PARTNERSHIP, a Delaware limited partnership, whose address is 2101 6th Avenue North, Suite 750, Birmingham, Alabama 35202 (the "Developer") and SEMINOLE COUNTY, a political subdivision of the State of Florida (the "County").

WITNESSETH

WHEREAS, on September 14, 1996, the County and the Developer's predecessor-in-interest, HIBC Development Company, entered into that certain Development Agreement Regarding International Parkway and Recreational Trail, recorded in Official Records Book 3137, Page 0769, public records of Seminole County, Florida (the "Development Agreement"), regarding construction of improvements along International Parkway between Lake Mary Boulevard and County Road 46-A (the "Parkway") which traverses through property owned by the Developer in Seminole County, Florida;

WHEREAS, HIBC Development Company conveyed the Parkway and additional property to Colonial on or around August 1, 2002;

WHEREAS, the Development Agreement provided for certain improvements to be constructed by the Developer in order to have the County accept dedication of the Parkway and a 40-foot wide recreational trail adjacent to and immediately east of the Parkway;

WHEREAS, pursuant to Sections 163.3220 through 163.3243, Florida Statutes, the County may enter into a development agreement with any person having a legal or equitable interest in real property, which establishes certain conditions and provisions relating to the property;

WHEREAS, the parties wish to amend the Development Agreement to clarify their understanding of the obligations of the parties relative to the Development Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for good and valuable consideration each to the other provided, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals.** The foregoing recitals are true and correct, form a material part of this Amendment, and are incorporated herein by this reference.

2. **Definitions.** Unless otherwise defined herein, the capitalized terms used herein have the same meanings ascribed to them in the Development Agreement.

3. **Developer Obligations.** In order for the County to accept dedication of certain right-of-way of the Parkway and the adjacent recreational trail, the Development Agreement set forth certain improvements that should be completed by the Developer. The parties acknowledge and agree that the Developer has met the following obligations set forth in the Development Agreement:

a) **Sidewalk.** Funding for a five foot sidewalk within the Recreational Trail;

b) **Phase I of Parkway.** Construction of the following improvements identified in Section 4(a) of the Development Agreement: (i) extending the Parkway as a two-lane road from its previous terminus at AAA Drive to just north of Street "B" and (ii) construction of a four-lane approach to County Road 46-A from Street "B" north;

c) **Phase II of Parkway.** Completion of the Phase II improvements, consisting of the third and fourth lanes to the segment of the Parkway extending from the northerly terminus of the previous existing four-lane to County Road 46-A.

4. **Portion of Parkway not Completed.** The Development Agreement provided that the Developer would use good faith efforts to complete Phase I of the improvements on or before June 1, 2000. To date, the Developer has not completed the realignment and reconstruction of that segment of the Parkway from Bridgewater Drive to the Specialty Pavement adjacent to the Heathrow Shoppes entrance. The County acknowledges that this obligation is not currently required and will not be required until such time as the Developer wishes to dedicate the Parkway.

5. **Dedication of International Parkway.** The parties acknowledge and agree that the Parkway can remain a private roadway until such time as the Developer wishes to dedicate said roadway to Seminole County or another appropriate governmental authority. In the event the Developer wishes to dedicate the Parkway, the Developer agrees that the southern portion of the Parkway (extending south from Bridgewater Drive to the Specialty Pavement adjacent to the Heathrow Shoppes entrance) may be required to be upgraded to meet County standards. The design criteria used in the realignment and reconstruction of this segment shall be agreed upon by the Developer and the County Engineer prior to construction. The County has no obligation to accept ownership or maintenance responsibilities for the Parkway until such time as the Developer requests the County's acceptance of its dedication and completes the remaining improvements identified in paragraph 4 above to County specifications.

6. **Dedication of Recreational Trail.** The parties acknowledge and agree that the dedication of the 40-foot recreational trail owned by Colonial shall occur within ninety (90) days of the date the last party executes this Amendment. The trail shall be used as a public trail for non-motorized recreational uses and for utility uses.

7. **Maintenance Bond.** Colonial shall submit to the County a five-year maintenance bond in the sum of \$500,000.00, which sum represents reasonable costs of maintenance and repairs of the Parkway. Said bond shall list the County as a named insured or a beneficiary thereunder and shall be from a bonding company licensed to do business in Florida.

8. **Ratification.** Except as specifically modified by this Amendment, the remainder of the provisions of the Development Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Developer and the County have executed this Amendment in a manner and form sufficient to bind them on the dates set forth below.

ATTEST:

"COUNTY"

SEMINOLE COUNTY, a political subdivision
of the State of Florida

County Clerk

By: _____
Daryl G. McLain, Chairman

Approved as to Form for Reliance

Date: _____

By: _____
Name: _____
Title: _____

"DEVELOPER"

COLONIAL REALTY LIMITED,
PARTNERSHIP, a Delaware limited
partnership

By: COLONIAL PROPERTIES
TRUST, an Alabama declaration
of Trust, its general partner

Signed, sealed and delivered
in the presence of:

Name: _____

Name: _____

By: _____
Charles A. McGehee
Vice-President

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2002, by Charles A. McGehee, as Vice-President of Colonial Properties Trust, an Alabama declaration of trust, the general partner of Colonial Realty Limited Partnership, a Delaware limited partnership, on behalf of said partnership. He is personally known to me or provided _____ as identification.

Notary Public
Print Name: _____
Commission No. _____
Commission Expires: _____

THIS DOCUMENT PREPARED BY AND
AFTER RECORDING RETURN TO:
Miranda F. Fitzgerald, Attorney
Lowndes, Drosdick, Doster,
Kantor & Reed, P.A.
215 N. Eola Drive
Orlando, Florida 32801

OFFICIAL RECORDS
BOOK PAGE
3137 0769
SEMINOLE CO. FL

MARYANNE MORSE
CLERK OF CIRCUIT COURT

895889

96 OCT - 1 PM 3:56

SEMINOLE COUNTY, FL.
RECORDED & VERIFIED

DEVELOPMENT AGREEMENT REGARDING
INTERNATIONAL PARKWAY AND RECREATIONAL TRAIL

THIS DEVELOPMENT AGREEMENT REGARDING INTERNATIONAL PARKWAY AND RECREATIONAL TRAIL (the "Agreement") is made and entered into as of this 19th day of September, 1996, by HIBC DEVELOPMENT COMPANY, a Florida general partnership, whose address is c/o Pizzuti Realty, Inc., 255 South Orange Avenue, Suite 1350, Orlando, Florida 32801 (the "DEVELOPER") and SEMINOLE COUNTY, a political subdivision of the State of Florida (the "COUNTY").

WITNESSETH:

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and the provision of concurrency public facilities and to reduce the economic risk of development, the Florida Legislature enacted the "Local Government Development Agreement Act" (Sections 163.3220 through 163.3243, Florida Statutes) which provides a supplemental method for entering development agreements in addition to the home rule and charter government authorities and powers of the COUNTY as set forth in Article VIII, Section 1 of the Constitution of the State of Florida; Chapters 125, 163 and 166, Florida Statutes; and other applicable law; and

WHEREAS, the COUNTY may enter into a development agreement with any person having a legal or equitable interest in real property, which development agreement provides for the development of real property and for the establishing of certain conditions, commitments, provisions, covenants, agreements, requirements and other pertinent matters relating thereto; and

WHEREAS, the DEVELOPER is the owner of the fee simple title to certain real property located in Seminole County, Florida, and more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (the "HIBC Property");

CERTIFIED COPY
MARYANNE MORSE
CLERK OF CIRCUIT COURT
SEMINOLE COUNTY, FLORIDA

BY Eva Roach

WHEREAS, the COUNTY has determined that the construction of an extension of International Parkway (the "Parkway") from its present terminus at AAA Drive north to County Road 46-A and certain improvements to the existing Parkway, all as shown on the International Parkway Improvements Preliminary Plan (the "Parkway Preliminary Plan") prepared by Conklin, Porter and Holmes Engineers, Inc. dated July, 1995, last revised on December 5, 1995, and bearing Job No. P0904.00 is consistent with and furthers the goals, objectives and policies of the Seminole County Comprehensive Plan; and

WHEREAS, in order to facilitate the construction of the Parkway, the DEVELOPER is willing to donate portions of the HIBC Property for the right-of-way and easements required for, and to construct, the Parkway, in two (2) phases; and

WHEREAS, in compliance with and in full satisfaction of the obligations of the DEVELOPER with respect to the abandoned CSX railroad right-of-way located on the HIBC Property, the DEVELOPER agrees to dedicate to the COUNTY a right-of-way corridor (the "Trail Right-of-Way") of approximately forty feet (40') in width located east of and immediately adjacent to the right-of-way for the Parkway, for use as a public trail for non-motorized recreational uses and for utility uses (the "Recreational Trail"); and

WHEREAS, the DEVELOPER further agrees to fully fund the construction of a five foot (5') wide concrete sidewalk within the Trail Right-of-Way; and

WHEREAS, the purpose of this Agreement is to set forth the understandings and agreements of the parties with respect to the donation of right-of-way and easements for and construction of the Parkway, and the donation of the Trail Right-of-Way for and the construction of the Recreational Trail, all as more particularly set forth in this Agreement.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein and for good and valuable consideration each to the other provided, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section 1. Recitals. The above recitals are true and correct, form a material part of this Agreement and are incorporated in this Agreement by this reference.

Section 2. Donation of Right-of-Way.

(a) The DEVELOPER agrees to convey to the COUNTY the fee simple title to those portions of the HIBC Property more particularly described on Exhibit "B" attached hereto and made a part hereof by this reference, to serve as right-of-way for the Parkway and the Recreational Trail (collectively, the "Parkway and Trail Right-of-Way"), by Special Warranty Deed which shall include the covenant of further assurances.

(b) The conveyance of the Parkway and Trail Right-of-Way by the DEVELOPER to the COUNTY shall be free and clear of all liens, encumbrances and matters of record, except pro-rata ad valorem real property taxes for the year of conveyance, Sign Easements as defined in Section 3 of this Agreement, any easements or agreements pertaining to the Joint Use Drainage Facilities (as defined in Section 6 of this Agreement), and encumbrances and matters of record which are acceptable to the COUNTY and which would not prevent the COUNTY'S full utilization of the Parkway Right-of-Way for public road purposes and the Trail Right-of-Way for the Recreational Trail.

(c) The timing for the dedication of the Parkway and Trail Right-of-Way shall be as provided in Section 4 of this Agreement. Following the conveyance, any use of the Trail Right-of-Way shall be approved by the COUNTY and shall be limited to access to and from the Parkway, utilities, drainage, landscaping, irrigation, lighting, signs (in accordance with Section 3 of this Agreement), and other uses not inconsistent with non-motorized public recreational uses.

(d) Nothing in this Agreement shall be deemed to prevent DEVELOPER from continuing to use International Parkway as a private road prior to the conveyance of the Parkway and Trail Right-of-Way to the COUNTY.

Section 3. Signs.

(a) Placement of Identification and Directional Signs. If the Trail Right-of-Way has not been conveyed at the time of site plan approvals for the development parcels contiguous to the Trail Right-of-Way then, perpetual nonexclusive easements for the construction and maintenance of signs, landscaping, lighting, irrigation, and related utilities (the "Sign Easements") may be reserved in the instrument(s) of conveyance. If however, the Trail Right-of-Way has been conveyed at the time of site plan approvals for the development parcels contiguous to the Trail Right-of-Way, the COUNTY agrees to grant to the DEVELOPER, its successors and/or assigns, perpetual non-exclusive Sign Easements within the Trail Right-of-Way. Locations for the Sign Easements shall be designated by the DEVELOPER and the COUNTY in accordance with the provisions of this Section. The Sign Easements shall be located

immediately adjacent to the east boundary of the Trail Right-of-Way and shall be a maximum of ten (10) feet in width (measured north-south) and twenty (20) feet in length (measured east-west). The DEVELOPER shall be entitled to only one (1) Sign Easement for each development parcel contiguous to the Trail Right-of-Way. Parcels which share a driveway shall also share a sign easement. The site identification sign to be located within each Sign Easement shall be approximately forty (40) square feet per sign face and shall be ground mounted on an enclosed base which, at a minimum, is the full width of the sign. All signs, excluding trail markers installed by the COUNTY, shall conform to the standards contained in the Heathrow International Business Center Planned Unit Development Commitments, Classification and District Description, as it may be from time to time amended and generally acceptable engineering practices and standards.

(b) Traffic Control Signs. The COUNTY and the DEVELOPER agree that all traffic control signs (including regulatory, warning, identification, information, etc.) shall be in accordance with the requirements of the Manual for Uniform Traffic control Devices in color, size, and installation. The DEVELOPER may install the traffic control signs on decorative sign supports which conform to the standards applicable in the Heathrow International Business Center, provided they meet the breakaway standards for safety and are consistent with generally acceptable engineering practices and standards. The DEVELOPER shall furnish and maintain, or cause the Heathrow International Center Owners Association, Inc., to furnish and maintain the sign supports and mounting hardware for all traffic control signs. In the event of damage, the COUNTY will only replace the sign support with standard u-channel type support until such time as the DEVELOPER or the Heathrow International Center Owners Association, Inc. shall install the decorative sign supports without cost to the COUNTY.

Section 4. Construction of the Parkway. The DEVELOPER and the COUNTY agree that the construction of the Parkway shall be completed in two (2) phases, as follows:

(a) Phase I shall be the extension of the Parkway as a two (2) lane roadway from the present northerly terminus of the Parkway at AAA Drive to just north of Street "B," and the construction of a four (4) lane approach to County Road 46-A beginning at the northern terminus of the Parkway's two (2) lane extension, and the realignment and reconstruction of those portions of the existing Parkway extending south from Bridgewater Drive to the Specialty Pavement adjacent to the Heathrow Shoppes entrance, as addressed on Universal Engineering Sciences Report No. 96-0187E, dated January 25, 1996, entitled "International Parkway Existing Pavement Evaluation." The design criteria used in the realignment and reconstruction of existing portions of the Parkway shall be agreed upon by the DEVELOPER and the County Engineer prior to implementation.

(b) Phase II shall be the addition of the third and fourth lanes to the segment of the Parkway which extends from the northerly terminus of the existing four (4) lane portion of the Parkway to County Road 46-A.

(c) The DEVELOPER shall be responsible for the design, engineering, permitting and construction of the improvements comprising each phase of the Parkway. The final construction plans and specifications for each phase (collectively, the "Plans and Specifications") shall substantially conform to the Parkway Preliminary Plan and the Access Management Criteria, as defined in Section 7 of this Agreement. The DEVELOPER has commenced construction of the improvements for Phase I of the Parkway and shall exercise its good faith efforts to complete the construction of the improvements comprising Phase I of the Parkway on or before June 1, 2000.

(d) The DEVELOPER and the COUNTY agree that the conveyance of the Parkway and Trail Right-of-Way and improvements thereon in accordance with Section 2 of this Agreement shall not occur until after the completion of the construction of the improvements comprising Phase I of the Parkway pursuant to applicable COUNTY regulations. Conveyance shall occur within thirty (30) days following the completion and acceptance of the improvements.

(e) The improvements comprising Phase II shall commence prior to the date upon which development of the HIBC Property and the other properties within the Heathrow International Business Center (including development within the portions thereof located in Seminole County and the City of Lake Mary) exceeds the Phase IC threshold specified in the Development Order issued for the HIBC Property. This threshold includes 1,116,500 sq. ft. of office space, 100,000 sq. ft. of commercial space, 6,500 sq. ft. of space devoted to day care use and 313 multi-family dwelling units, or equivalent development not exceeding 20,000 average daily external trips. As part of each site plan submittal, the DEVELOPER shall include the external average daily trips to be generated by that site plan and the cumulative external average daily trips generated from the HIBC Property and other properties within the Heathrow International Business Center (including development within the portions thereof located in Seminole County and the City of Lake Mary).

(f) In addition, no further building permits shall be issued until the improvements comprising Phase II are commenced if any one of the following traffic thresholds is exceeded:

(1) If the section of the Parkway extending from the current northerly terminus of the existing four (4) lane segment of the Parkway to County Road 46-A has Average Daily Trips ("ADT") for the link on average greater than 18,000; the link is operating below a Level-of-

Service "E"; and the development of the HIBC Property and the other properties within the Heathrow International Business Center (including development within the portion thereof located in Seminole County and the City of Lake Mary) exceeds 313 multi-family dwelling units and 611,500 sq. ft. of office uses, or other uses generating equivalent ADT's.

(2) If the ADT for the link described in Subsection 4(f)(1) above on average exceeds 22,000 and the development of the HIBC Property and the other properties within the Heathrow International Business Center (including development within the portions thereof located in Seminole County and the City of Lake Mary) exceeds 313 multi-family dwelling units and 611,500 sq. ft. of office uses, or other uses generating equivalent ADT's.

(3) If the ADT for the link described in Subsection 4(f)(1) above on average exceeds 25,000.

(g) The DEVELOPER shall cause Phase II of the Parkway to be completed within two (2) years following commencement of construction. The DEVELOPER and the COUNTY agree that upon the COUNTY'S acceptance of the improvements for Phase I of the Parkway and the opening of these improvements to vehicular traffic, the Parkway shall be functionally classified by the COUNTY a collector road in accordance with State law and, other than as specifically provided in this Agreement, shall be maintained by the COUNTY as part of the County Road System. Thereafter, to the extent allowed by law, the COUNTY agrees to indemnify and hold the DEVELOPER harmless of and from any claims, actions, losses, damages, costs, expenses or other liability (including reasonable attorneys' and paralegals' fees and costs, whether at trial or on appeal) relating to the negligence of the COUNTY or its officers, agents or employees pertaining to the Parkway. The DEVELOPER shall perform and/or replace any defective work under its general warranty for the improvements as included under the required maintenance bond to be posted with the COUNTY for the improvements.

Section 5. Design and Construction of Recreational Trail.

(a) The COUNTY agrees to use the Trail Right-of-Way for the construction and maintenance of a Recreational Trail. The COUNTY shall be responsible for the reconstruction of all driveway crossings for parcels that have been developed at the time the Recreational Trail is constructed. The plans and specifications for the Recreational Trail, including the location, configuration, spacing and number of access points and other access related improvements, and any changes thereto, shall be reviewed by and coordinated with the DEVELOPER. The DEVELOPER shall have standing to appeal any staff determination

regarding the plans and specifications for the Recreational Trail to the Board of County Commissioners under applicable COUNTY procedures if the DEVELOPER believes the staff determination will adversely affect the HIBC Property. The DEVELOPER shall contribute to the funding of the Recreational Trail in an amount equal to the cost of constructing a five foot (5') concrete sidewalk consistent with COUNTY standards. Until such time as the COUNTY adopts a Recreational Trail Master Plan and associated design specifications, the DEVELOPER shall incorporate within engineering plans on a parcel by parcel basis the design for a five foot (5') concrete sidewalk in accordance with the Land Development Code of Seminole County which shall be constructed at the time and discretion of the COUNTY. The DEVELOPER shall pay to the COUNTY prior to the issuance of the building permit for the primary structure on each development parcel contiguous to the Trail Right-of-Way an amount calculated as follows:

$$\begin{array}{l} \text{Cost Per Linear Concrete Foot of Sidewalk (5 ft. wide)} \quad X \\ \text{Frontage (expressed in linear feet) of Parcel on Trail} \quad = \\ \text{Amount Due COUNTY Per Parcel} \end{array}$$

With respect to those portions of the Recreational Trail adjacent to common areas or otherwise not adjacent to development parcels on the east side of the Trail Right-of-Way, the DEVELOPER shall include the design for a five foot (5') concrete sidewalk within the engineering plans for the closest section of the Parkway. The DEVELOPER'S contribution for the cost of the sidewalk adjacent to these tracts shall be payable by the DEVELOPER to the COUNTY prior to issuance of a certificate of completion for the applicable section of the Parkway.

(b) In the event the COUNTY shall not complete the construction of the Recreational Trail within five (5) years after the Effective Date (as defined in Section 18 of this Agreement), the DEVELOPER shall receive a refund of all sums previously paid to the COUNTY in accordance with this Section 5 and shall construct a five foot (5') concrete wide sidewalk within the Trail Right-of-Way. With respect to access, signage, crossing striping, safety rails, traffic control devices and other safety and design considerations, all Recreational Trail road crossings shall substantially conform to the design criteria set forth in Exhibit "C" attached hereto and by this reference made a part hereof. The DEVELOPER and the COUNTY agree that, other than as provided in Section 9 of this Agreement regarding landscaping and irrigation, the Recreational Trail shall be maintained, in perpetuity, by the COUNTY. To the extent allowed by law, the COUNTY shall indemnify and hold the DEVELOPER harmless of and from any claims, actions, loss, damages, costs, expenses or other liability (including reasonable attorneys' and paralegals' fees and costs, whether at trial or on appeal) relating to the negligence of the COUNTY or its officers, agents or employees pertaining to the Recreational Trail.

Section 6. Joint Use Drainage Facilities.

(a) The parties agree that the drainage system within Heathrow International Business Center shall be appropriately sized to accommodate drainage flows from the Parkway and Trail Right-of-Way and from development parcels within Heathrow International Business Center.

(b) All drainage facilities which will receive drainage flows from the Parkway and Trail Right-of-Way or development parcels (whether such facilities are located within or adjacent to the Parkway or Trail Right-of-Way) shall be deemed joint use drainage facilities serving both public and private uses for the conveyance and storage of surface water drainage and runoff (the "Joint Use Drainage Facilities"), and the parties shall cooperate with each other and execute the easements and agreements necessary to evidence and effectuate the provisions of this Section 6.

(c) Such easements and agreements shall provide that the DEVELOPER, at its sole cost and expense, shall construct all Joint Use Drainage Facilities located inside and outside of the Parkway and Trail Right-of-Way and cause the Heathrow International Center Owners Association, Inc. to functionally maintain all Joint Use Drainage Facilities located outside the Parkway and Trail Right-of-Way and that the COUNTY, at its sole cost and expense, shall functionally maintain all Joint Use Drainage Facilities located within the Parkway and Trail Right-of-Way.

(d) The DEVELOPER shall grant the COUNTY unlimited access to any and all stormwater basins directly or indirectly connected to the Joint Use Drainage Facilities for emergency access needs. The COUNTY shall grant the DEVELOPER unlimited access to the Joint Use Drainage Facilities located within the Parkway and Trail Right-of-Way for maintenance of landscaped areas and trash removal.

(e) The DEVELOPER shall pay all recording costs for the easements and agreements pertaining to the Joint Use Drainage Facilities and shall pay the cost of the documentary stamps to be affixed to any such easements and agreements.

Section 7. Reservation of Access to the Parkway. The COUNTY agrees that ingress, egress and access to, from and between the various properties comprising Heathrow International Business Center and the Parkway, including the location, configuration, spacing and number of access points, median openings, turn lanes, curb cuts and other access related improvements (the "Access Improvements"); shall be in accordance with the Heathrow International Business Center Access Plan (and accompanying access criteria) prepared by Kimley-Horn and Associates, Inc. attached hereto as Exhibit "D" and by this reference made a part hereof (the "Access

Management Criteria") and generally acceptable engineering practices and standards. The DEVELOPER and the COUNTY agree that the Access Improvements shall be designed and constructed as development occurs on parcels adjacent to the Parkway and Trail Right-of-Way, at the sole cost and expense of the DEVELOPER.

Section 8. Additional Improvements to International Parkway. Upon completion of the improvements to the Parkway, as set forth in Section 4 of this Agreement, the DEVELOPER shall not be obligated to construct any additional through lanes on the Parkway, and the development approved in the HIBC DRI Development Order, as it may be from time to time amended, shall be permitted to proceed in accordance with the provisions of the HIBC DRI Development Order and amendments thereto; provided however, that the COUNTY may reevaluate the entitlement for use of the Parkway in the event that a proposed change to the HIBC DRI Development Order is determined by the COUNTY to constitute a substantial deviation, pursuant to Subsection 380.06(19), Florida Statutes.

Section 9. Landscaping and Irrigation.

(a) The COUNTY acknowledges that the completed Parkway and Recreational Trail will be integral to the Heathrow International Business Center and that it is the desire of the DEVELOPER that all landscaping installed within the Parkway and Trail Right-of-Way conform to the design standards of the Heathrow International Business Center.

(b) Subject to the provisions of the Land Development Code of Seminole County and generally acceptable engineering practices and standards which govern right-of-way utilization, the COUNTY agrees to cooperate in good faith with the DEVELOPER in its efforts to install, at DEVELOPER'S sole cost and expense, within the Parkway and Trail Right-of-Way, landscaping in accordance with the Master Landscape Plan to be approved by the COUNTY, which will include sod, trees and shrubs and appropriate irrigation facilities, consistent with criteria contained in the Heathrow International Business Center Planned Unit Development Commitments, Classification, and District Description, as it may be from time to time amended.

(c) The DEVELOPER acknowledges that, as part of the right-of-way utilization permit review process, the COUNTY will review the DEVELOPER'S landscaping plans for the existence of conditions, whether involving plant selection, location or both, which would cause damage to infrastructure, including roads, curbs, sidewalks, utility lines, and drainage facilities, or present hazards to the travelling public.

(d) The DEVELOPER agrees to cause the Heathrow International Center Owners Association, Inc., to provide for the maintenance of the landscaping and irrigation facilities in perpetuity.

Section 10. Specialty Pavement. The COUNTY acknowledges the presence of specialty or decorative vehicular pavement/pavers ("Specialty Pavement") at entry points and certain other locations on the existing Parkway as shown on the Parkway Preliminary Plan. In consideration of the donation by DEVELOPER of the Parkway and Trail Right-of-Way, the COUNTY agrees that the existing Specialty Pavement may be retained. Any new Specialty Pavement shall conform to Florida Department of Transportation standards and criteria. Specialty Pavement shall not be installed in those areas where the concrete or paved portions of the Recreational Trail intersect driveways or streets. The COUNTY shall have no obligation to replace or repair any portions of the Specialty Pavement damaged in connection with COUNTY utility or other work. The DEVELOPER agrees to cause the Heathrow International Center Owners Association, Inc. to provide for the maintenance (including the restoration of Specialty Pavement damaged by the COUNTY, as provided herein) of the Specialty Pavement in perpetuity.

Section 11. Parkway Sidewalks. Any COUNTY sidewalk requirements (whether specified in the Land Development Code of Seminole County or in the various project approvals relating to the HIBC Property (or any of the other properties within Heathrow International Business Center) to the contrary notwithstanding, the COUNTY and the DEVELOPER acknowledge and agree that (i) the DEVELOPER'S commitments specified in Section 5 of this Agreement shall satisfy all obligations of the DEVELOPER to contribute to the construction of the Recreational Trail; and (ii) prior to conveyance of the Parkway Right-of-Way, the DEVELOPER will complete construction of a five foot (5') concrete sidewalk from the southern boundary of the property located at 300 International Parkway to Street B. Sidewalk construction shall occur concurrent with site development or phased construction of the Parkway, whichever occurs first. In addition, subject to site limitations and reasonable engineering practices, the DEVELOPER shall construct a five foot (5') concrete sidewalk within the Parkway Right-of-Way that exists on the date of this Agreement south of the southern boundary of the property located at 250 International Parkway and connecting with the existing sidewalk adjacent to the Heathrow Shoppes parcel. The DEVELOPER shall also make a good faith effort to obtain an easement in which to construct the connecting link of the five foot (5') concrete sidewalk extending between the properties located at 250 and 300 International Parkway.

Section 12. Binding Effect. The obligations and covenants of this Agreement shall bind and benefit the successors, personal representatives, heirs and assigns of the parties to this

Agreement.

Section 13. Conflicts. In case of a conflict between any provision in this Agreement and a provision in the Heathrow International Business Center Planned Unit Development Commitments, Classification, and District Description dated October 24, 1989, the provisions of this Agreement shall control.

Section 14. Severability. If any provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefits by any party hereunder or substantially increase the burden of any party hereunder, shall be held to be invalid or unenforceable to any extent, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

Section 15. Notices: Proper Form.

(a) Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered (1) when hand delivered to the official hereinafter designated, or (2) upon receipt of such notice when deposited in United States mail, postage prepaid, certified mail, return receipt requested, or (3) upon receipt of such notice when deposited with Federal Express or similar overnight courier, addressed to a party at the address set forth opposite the party's name below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith.

(b) The initial persons to review note as set forth herein are:

(1) COUNTY: Jerry McCollum
Reflections Plaza
520 West Lake Mary Boulevard
Suite 200
Sanford, Florida 32773

With a copy to: Colleen Rotella
Seminole County Planning
Department
1101 East First Street
Sanford, Florida 32771-1468

(2) DEVELOPER:

HIBC Development Company, a
Florida general partnership
c/o Pizzuti Realty, Inc.
255 South Orange Avenue, Suite 1350
Orlando, Florida 32801

With a Copy to:

Miranda F. Fitzgerald, Attorney
Lowndes, Drosdick, Doster,
Kantor & Reed, P. A.
215 North Eola Drive
Orlando, Florida 32801

Section 16. Time of the Essence. Time is hereby declared of the essence in the performance of the duties and obligations of the respective parties to this Agreement.

Section 17. Applicable Law. This Agreement and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida, and venue for any action to enforce the provisions of this Agreement shall be in the Circuit Court for Seminole County, Florida.

Section 18. Effective Date. This Agreement shall become effective upon the date of execution by the last of the parties hereto (the "Effective Date").

Section 19. Expenses of Enforcement.

(a) Should either party incur any expenses in enforcing any covenants, terms or conditions of this Agreement, the party in default, as determined by a court of competent jurisdiction, shall pay to the other all expenses so incurred, including reasonable attorneys' and paralegals' fees.

(b) On any third party challenge to this Agreement, the DEVELOPER shall bear all costs of defense.

Section 20. Amendments. No amendment, modification or other change in this Agreement shall be binding upon the parties unless in writing and executed by all of the parties hereto.

SEMINOLE COUNTY

3137 - 0781

OFFICIAL RECORDS
BOOK PAGE

Section 21. Assignment. This Agreement shall not be assigned by either party without the prior written approval of the other, which approval shall not be unreasonably withheld.

Section 22. Exhibits. All exhibits to this Agreement shall be deemed to be incorporated into this Agreement as if fully set forth verbatim into the body of the Agreement. Reduced versions of Exhibit "C" and Exhibit "D" have been attached to the copy of this Agreement recorded in the Public Records of Seminole County. Full size versions of these Exhibits have been attached to the executed copies of this Agreement on file with the COUNTY and the DEVELOPER. Only the full size versions of Exhibits "C" and "D" shall be used for any purpose whatsoever. In case of conflict between the drawings comprising Exhibit "C" or Exhibit "D" attached to this Agreement and any subsequent version of these drawings, the applicable drawing with the latest date shall control.

Section 23. Public Records. The DEVELOPER shall allow public access to all documents, papers, letter or other materials subject to the provisions of Chapter 119, Florida Statutes, and which have been made or received by the DEVELOPER in connection with this Agreement.

Section 24. Records and Audits. The DEVELOPER shall maintain in its place of business all books, documents, papers and other evidence pertaining in any way to payments made pursuant to this Agreement. Such records shall be available at the DEVELOPER'S place of business at all reasonable times during the term of this Agreement and for five (5) years from the date of final payment under this Agreement for audit or inspection by the COUNTY upon five (5) days prior written notice.

Section 25. Conflict of Interest. The DEVELOPER agrees that it will not commit any act in the performance of its obligations pursuant to this Agreement that would create a conflict of interest, as defined by Chapter 112, Florida Statutes.

Section 26. Compliance with Laws and Regulations. In performing pursuant to this Agreement, each party hereto shall abide by the respective statutes, ordinances, rules and regulations pertaining to, or regulating, the acts of such party, including, but not limited to, those now in effect and hereafter adopted.

Section 27. Entire Agreement.

(a) This Agreement embodies and constitutes the entire understanding of the parties with respect to the subject matter addressed herein, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement.

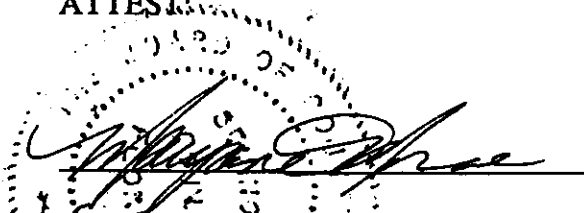
(b) This Agreement shall not be deemed to grant any development approval or be deemed to be a development permit or order except as may be specifically set forth herein.

IN WITNESS WHEREOF, the DEVELOPER and the COUNTY have executed this Agreement in manner and form sufficient to bind them on the dates set forth below.

"COUNTY"

SEMINOLE COUNTY, a political subdivision of the State of Florida

ATTEST:


County Clerk

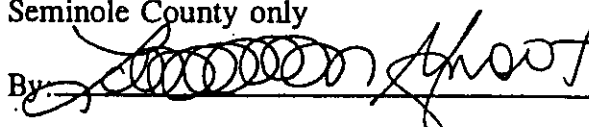
By: _____

Name: 

Its: CHAIRMAN

Date: 9.19.96

Approved as to Form for Reliance by
Seminole County only

By: 

Name: LONNIE N. GROOT

Its: Deputy County
Attorney

"DEVELOPER"

HIBC DEVELOPMENT COMPANY,
Florida general partnership

By: PIZZUTI PROPERTIES/HIBC
LIMITED COMPANY, an Ohio
limited liability company, as
Managing General Partner

By: PIZZUTI EQUITIES, INC.,
a Delaware Corporation, as
Managing Member

Signed, sealed and delivered
in the presence of:

[Signature]
Name: Clifford D. Aibel

[Signature]
Name: Mark K. Evans

By: [Signature]
Name: Richard C. Daley

Its: VP

Date: 9-2-96

STATE OF Florida
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 2nd day of
September, 1996, by Richard C Daley,
as VP of Pizzuti Equities, Inc., as managing
member, on behalf of said Pizzuti Properties/HIBC Limited Company as managing general
partner of HIBC Development Company, a Florida general partnership, on behalf of said
partnership. He is personally known to me and did not produce identification.

[Signature]
Notary Public
Print Name: _____
Commission No.: _____
Commission Expires: _____



EXHIBIT "A"**HEATHROW INTERNATIONAL BUSINESS CENTER****LEGAL DESCRIPTION**

A portion of Section 7, Township 20 South, Range 30 East, and Section 12, Township 20 South, Range 29 East, Seminole County, Florida, being more particularly described as follows:

Commence at the West 1/4 corner of Section 7, Township 20 South, Range 30 East, Seminole County, Florida and run North 00° 21' 05" West along the West line of the Northwest 1/4 of said Section 7 for a distance of 0.50 feet to the **POINT OF BEGINNING**; thence run North 89° 46' 28" East, 459.09 feet to the Westerly right of way line of Interstate No. 4 (State Road No. 400); thence run South 17° 35' 11" West along said right of way line for a distance of 429.25 feet; thence South 21° 35' 11" West, 637.08 feet to the Point of Curvature of a curve concave Northwesterly and having a radius of 1055.92 feet; thence run Southwesterly along the arc of said curve through a central angle of 39° 25' 29" for a distance of 726.57 feet to the point of tangency; thence South 61° 00' 40" West, 495.72 feet to the point of curvature of a curve concave Southeasterly having a radius of 475.00 feet; thence Southwesterly along the arc of said curve through a central angle of 26° 00' 21" for 215.60 feet to a point lying on a curve concave Westerly having a tangent bearing of North 11° 00' 13" West and a radius of 1379.58 feet; thence Northerly along the arc of said curve through a central angle of 00° 24' 05" for 9.67 feet to the point of tangency; thence North 11° 24' 18" West, 454.11 feet to a point of curvature of a curve concave Southeasterly and having a radius of 1041.19 feet; thence run Northeasterly along the arc of said curve through a central angle of 60° 00' 00" for a distance of 1090.33 feet to a point of compound curvature of a curve concave Southeasterly and having a radius of 3445.17 feet; thence continue Northeasterly along the arc of said curve through a central angle of 11° 21' 53" for a distance of 683.36 feet to the point of tangency; thence run North 59° 57' 35" East, 200.14 feet; thence run South 00° 21' 05" East, 21.80 feet to the **POINT OF BEGINNING**.

Contains: 36.88 Acres, more or less.

NOTE: This description uses East line of transportation corridor as its West boundary.

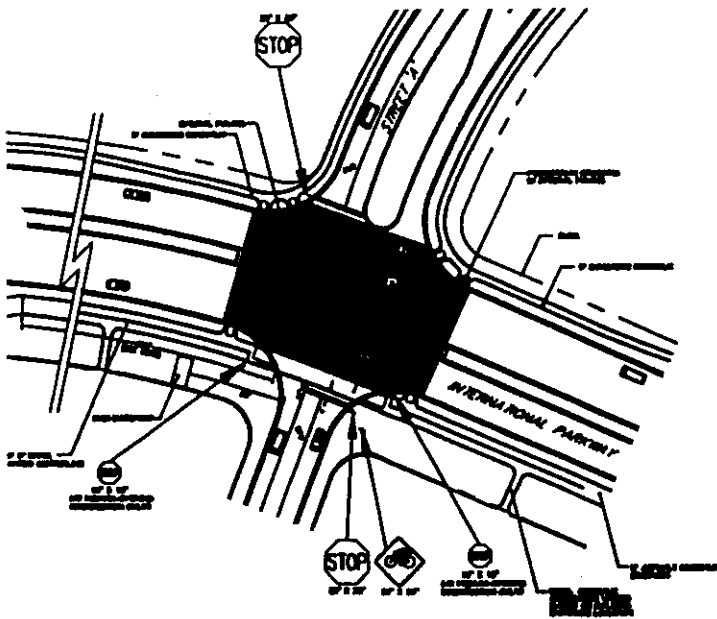
TOGETHER WITH:

A tract of land being a portion of Sections 1 and 12, Township 20 South, Range 29 East and Sections 6 and 7, Township 20 South, Range 30 East, Seminole County, Florida, being more particularly described as follows:

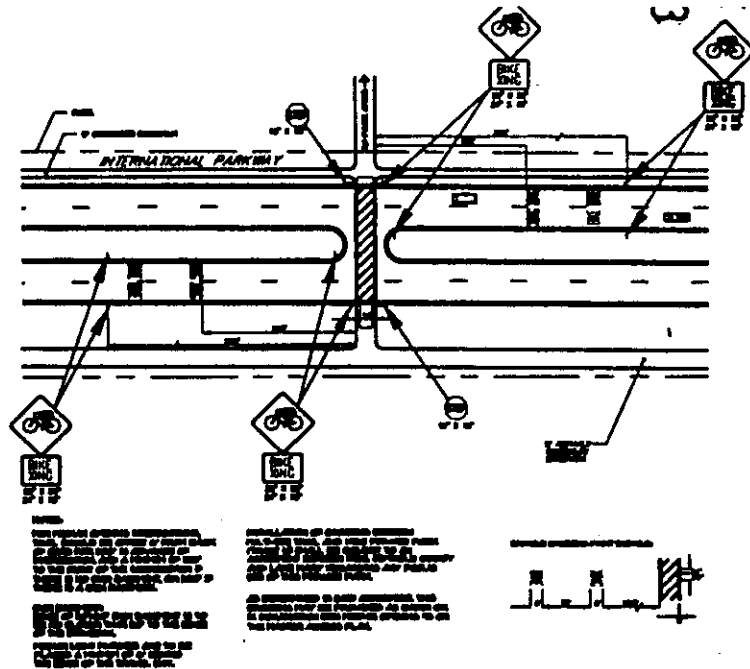
Commence at the Southwest corner of said Section 6; thence North 00° 04' 17" West along the West line of Section 6 for a distance of 73.27 feet to the **POINT OF BEGINNING**; thence South 42° 30' 27" West, 149.49 feet; thence North 41° 18' 38" West, 516.64 feet; thence South 48° 41' 20" West, 200.00 feet; thence South 78° 55' 17" West, 728.58 feet; thence North 04° 15' 32" West, 471.30 feet; thence North 48° 16' 27" West, 888.59 feet; thence South 89° 58' 52" East, 205.00 feet; thence North 00° 19' 51" East, 350.00 feet; thence South 89° 58' 52" East along the North line of the South 1/2 of Government Lot 2 of Section 1, Township 20 South, Range 29 East, for a distance of 897.54 feet; thence North 00° 03' 45" East along the West line of the Northeast 1/4 of said Government Lot 2 for a distance of 164.00 feet; thence South 89° 58' 52" East, 898.77 feet; thence South 00° 04' 17" East along the West line of the Southwest 1/4 of Section 6, Township 20 South, Range 30 East for 331.59 feet; thence South 89° 57' 02" East along the South line of the North 1/2 of the Southwest 1/4 of said Section 6 for a distance of 33.00 feet; thence North 00° 04' 17" West along the East right of way of Banana Lake Road and a line 33 feet East of and parallel to the West line of the Southwest 1/4 of Section 6 for a distance of 1303.44 feet; thence North 00° 04' 43" West along said right of way and along a line 33 feet East of and parallel to the West line of the Northwest 1/4 of Section 6 for a distance of 1281.20 feet; thence North 89° 53' 25" East along the occupied North line of the South 1281.20 feet of Government Lot 4 for a distance of 1454.93 feet; thence North 00° 06' 26" East along the West right of way of the abandoned S.C.L. Railroad for a distance of 1745.09 feet; thence South 89° 44' 51" East along a line 25 feet South of and parallel to the North line of Section 6 and along the South right of way of State Road 46-A for a distance of 1474.55 feet; thence South 00° 15' 09" West, 25.00 feet; thence South 89° 44' 51" East, 440.00 feet; thence South 00° 15' 09" West, 20.00 feet; thence South 89°

44' 51" East, 364.98 feet; thence South 24° 07' 41" West along the West right of way of Interstate No. 4 (State Road #400) for a distance of 2877.13 feet; thence South 89° 53' 25" West along the North line of the South 10 acres of Government Lot 2 for a distance of 42.32 feet; thence South 00° 07' 40" East along the West line of Government Lot 2 for a distance of 93.94 feet; thence South 24° 07' 41" West along the aforesaid West right of way of Interstate No. 4 for a distance of 1990.99 feet Southeasterly to the point of curvature of a curve concave Southeasterly having a radius of 11,459.20 feet; thence run Southerly along the arc of said curve through a central angle of 06° 32' 30" for a distance of 1308.34 feet to the point of tangency; thence South 17° 35' 11" West, 70.00 feet; thence departing said right of way run North 72° 24' 49" West, 400.00 feet to the point of curvature of a curve concave Northeasterly having a radius of 1800.00 feet; thence Northwesterly along the arc of said curve through a central angle of 24° 55' 11" for a distance of 782.88 feet; thence South 42° 30' 27" West, 285.78 feet to the **POINT OF BEGINNING.**

Contains: 318.38 Acres, more or less.



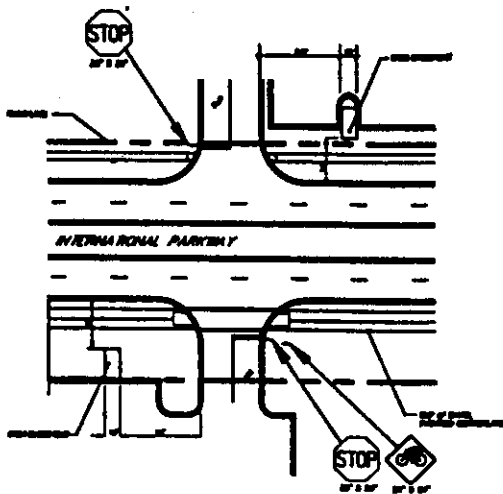
NEO TYPICAL INTERSECTION PLAN AT STREET "A"



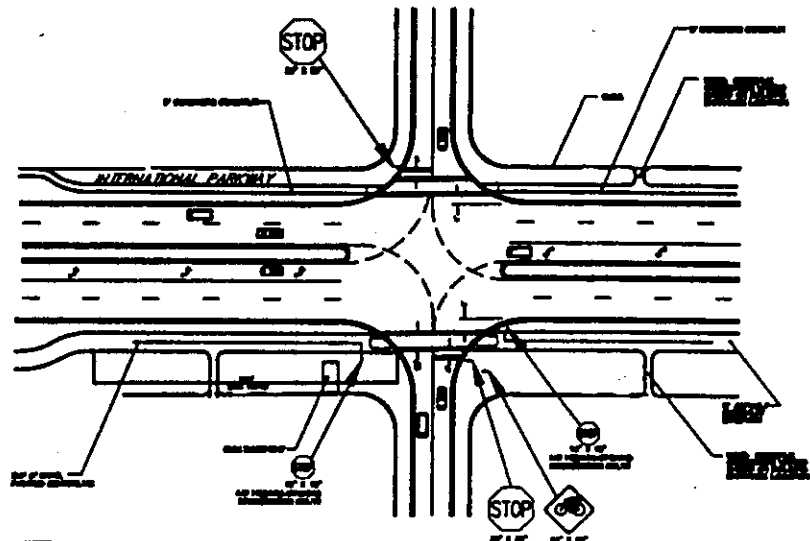
NEO TYPICAL INTERSECTION PLAN CROSSING BETWEEN TRACT K AND TRACT N (NO SIGNAL)



Legibility Unsatisfactory
For Microfilming



NEO TYPICAL INTERSECTION PLAN (RIGHT IN, RIGHT OUT ONLY)



NEO TYPICAL INTERSECTION PLAN (NO SIGNAL)



FEATHROW
INTERNATIONAL
BUSINESS CENTER

Commercial Real Estate
WATTS

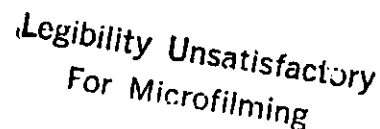
KENDERSON PLANNING GROUP, INC.
Planner

BRIDGEMAN DESIGN & ASSOC.
Environmental Consultants

KIMLEY HORN
Transportation Consultants

6/18/76
S:\MTH\0001\TYP001.DWG

EXHIBIT "C"

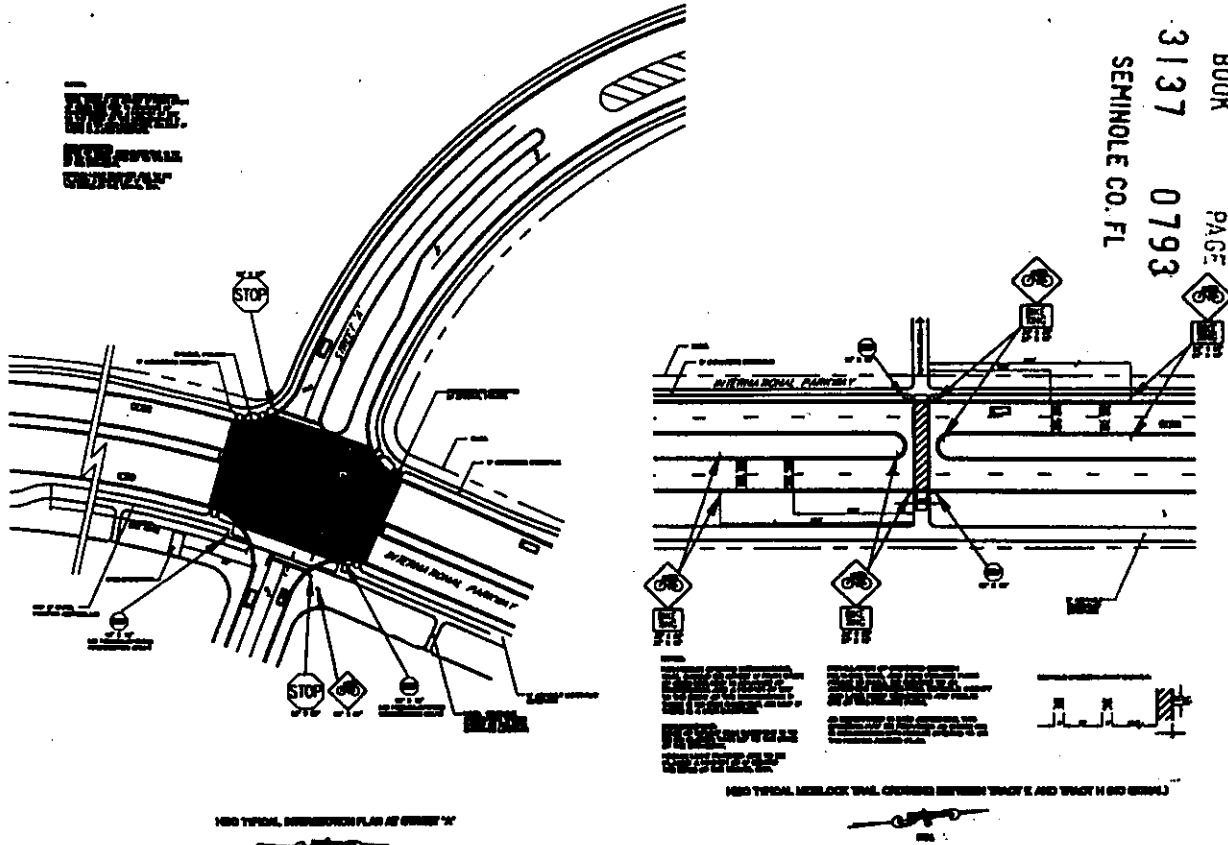


1. The access for parcels along International Parkway shall be consistent with the following criteria which are conceptually indicated on the "Access Plan". The "Access Plan" illustrates the maximum number of median openings and driveways which can be requested by HIBC and which will be granted by the County. Fewer access points can be used at the discretion of HIBC.
2. Median openings shall be spaced as shown except that minor shifts in location can be approved by the county engineer in conjunction with parcel development.
3. New driveway openings shall be spaced at a minimum centerline distance of 250 feet from either streets or driveways and shall be limited in number as shown on the plan.
4. Left turn storage lanes shall be provided in both directions of median openings except as noted below. A left turn lane is not required to access the utility parcel adjacent to tract A-1 (#8). A left turn lane shall be required in one direction at openings serving development on one side only (#2, 3, 4, 10, 11, 13).
5. Median opening #2 shall allow left turns in and out but be considered as directional since access is restricted to the east side of the roadway.
6. Median opening #7 shall allow left turns out but no left turns in.
7. Access to Parcel K of Median Opening #17 will be reviewed by Seminole County and the City of Lake Mary if requested by HIBC. Access to Parcel K will be permitted if doing so will not cause a signal to be required at Median Opening #17.

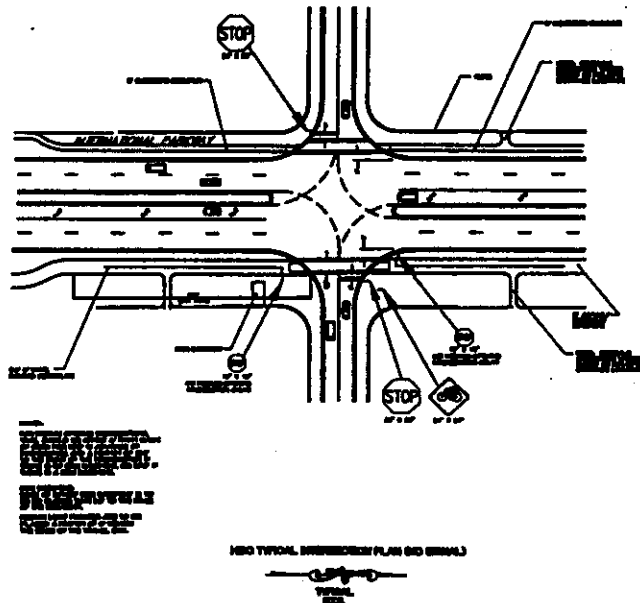
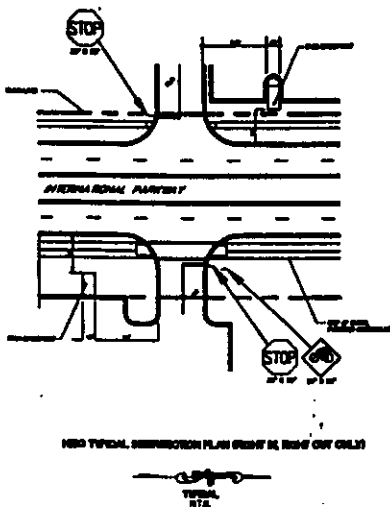


○ Full Median Opening
● Directional Median Opening
— Driveway
— Driveways (Right In - Right Out Only)





Legibility Unsatisfactory
For Microfilming



HEATHROW
INTERNATIONAL
BUSINESS CENTER

Commercial Real Estate
OFFICE

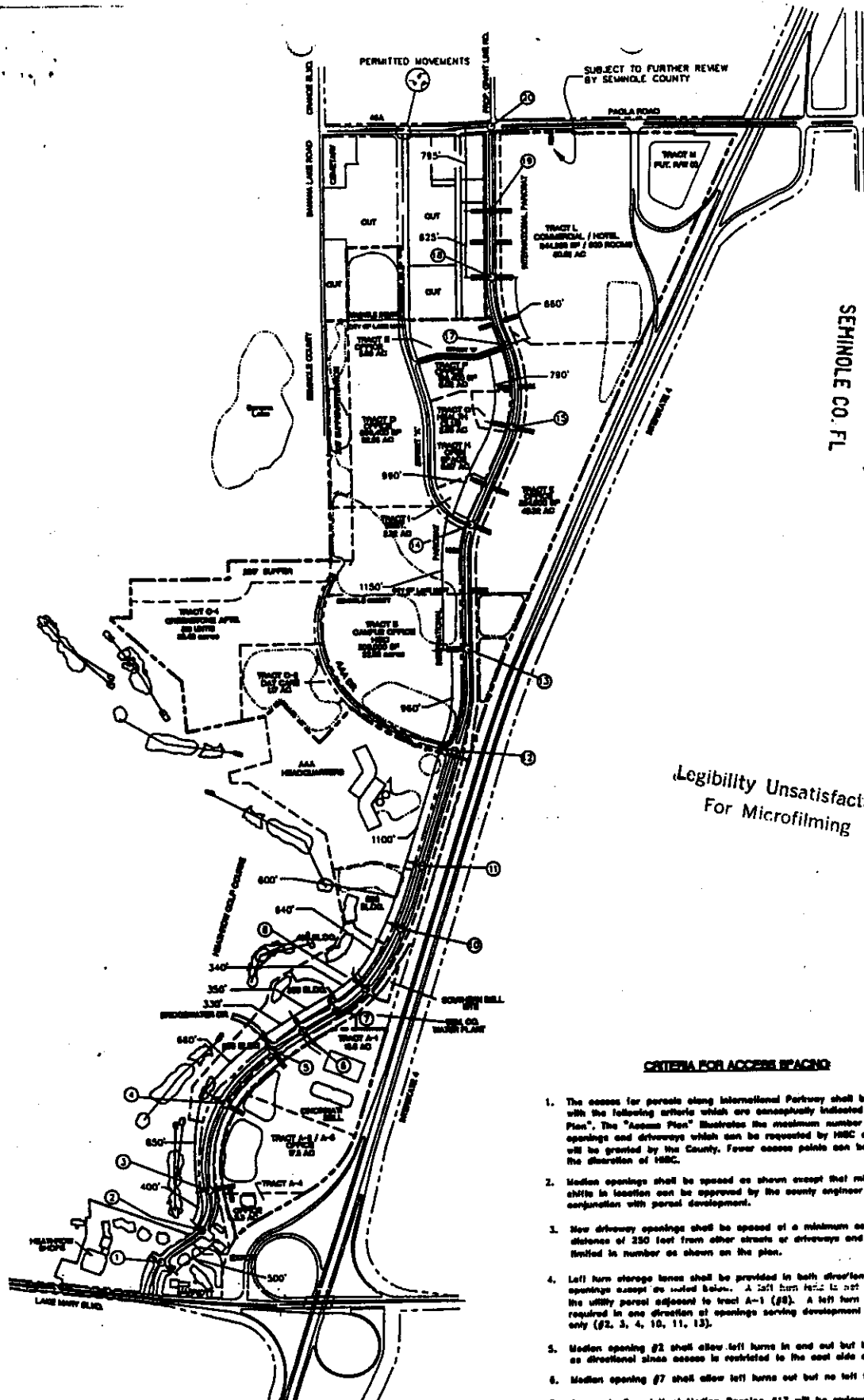
Engineering Planning Group, Inc.
Planners

SEMINOLE COUNTY & AREA
Department of Transportation

SEMINOLE COUNTY
Department of Transportation

SEMINOLE COUNTY
Department of Transportation

EXHIBIT "C"



Legibility Unsatisfactory
For Microfilming

CRITERIA FOR ACCESS PLACING

1. The access for parcels along International Parkway shall be consistent with the following criteria which are conceptually indicated on the "Access Plan". The "Access Plan" illustrates the maximum number of median openings and driveways which can be requested by HBC and which will be granted by the County. Fewer access points can be used at the discretion of HBC.
2. Median openings shall be spaced as shown except that minor shifts in location can be approved by the county engineer in conjunction with parcel development.
3. New driveway openings shall be spaced at a minimum centerline distance of 250 feet from other streets or driveways and shall be limited in number as shown on the plan.
4. Left turn storage lanes shall be provided in both directions of median openings except as noted below. A left turn lane is not required to serve the utility parcel adjacent to tract A-1 (28). A left turn lane shall be required in one direction of openings serving development on one side only (22, 3, 4, 10, 11, 13).
5. Median opening #2 shall allow left turns in and out but be considered as directional since access is restricted to the east side of the roadway.
6. Median opening #7 shall allow left turns out but no left turns in.
7. Access to Parcel K of Median Opening #17 will be reviewed by Seminole County and the City of Lake Mary if requested by HBC. Access to Parcel K will be permitted if doing so will not cause a signal to be required at Median Opening #17.

HEATHROW
INTERNATIONAL
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LEGEND:

- Full Median Opening
- Directional Median Opening
- Driveway
- Driveways (Right In - Right Out Only)



Commercial Real Estate
THE CITY

SEMINOLE PLANNING GROUP, INC.
Planner

SEMINOLE ENGINEERING & ARCHT.
Environmental Consultants

SEMINOLE ENGINEERING & ARCHT.
Transportation Consultants

SEMINOLE ENGINEERING & ARCHT.
Surveyors

EXHIBIT - "D"